



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 28, 1994

Ms. Christine Rodriguez
Staff Attorney
Legal Services, 110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR94-101

Dear Ms. Rodriguez:

Your predecessor at the Department of Insurance asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ The request was assigned ID# 21472.

The Texas Department of Insurance (the "department") received an open records request for information concerning Marquette National Life Insurance Company. The department provided some of the requested information, but is seeking to withhold several documents under sections 552.112 and 552.111 of the Government Code (formerly V.T.C.S. article 6252-17a, sections 3(a)(12) and 3(a)(11)).

Your predecessor claimed that the documents found under Tab "A," plus two documents found under Tab "B," are excepted from required public disclosure by section 552.112(a). We agree. Section 552.112(a) excepts from required public disclosure:

information contained in or relating to examination, operating, or
condition reports prepared by or for an agency responsible for the

¹We note that the Seventy-third Legislature codified the Open Records Act as chapter 552 of the Government Code and repealed article 6252-17a, V.T.C.S. See Acts 1993, 73d Leg., ch. 268, §§ 1, 46. The codification of the Open Records Act in the Government Code is a nonsubstantive codification. *Id.* § 47.

regulation or supervision of financial institutions or securities, or both.

Insurance companies are "financial institutions" under section 552.112. Open Records Decision No. 158 (1977) at 5-6. Furthermore, the documents your predecessor identified as excepted from disclosure by section 552.112 concern the financial condition, balance sheets, and operations of Marquette National Life Insurance Company. Therefore, you may withhold all of the documents that your predecessor claimed are excepted from disclosure by section 552.112.

Your predecessor also claimed that all or portions of the remaining documents submitted for review are excepted from required public disclosure under section 552.111. Section 552.111 excepts from required public disclosure "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." This section protects only advice, recommendations, or opinions reflecting the policymaking processes of the governmental body at issue; it does not protect facts or written observations of facts. Open Records Decision No. 615 (1993) at 5. We conclude that the portions of the documents we have highlighted in yellow are excepted from disclosure under section 552.111. The remainder of the information your predecessor argued is excepted from disclosure consists solely of facts and written observations of facts, and thus, you may not withhold this information under section 552.111.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open-records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in black ink, reading "Margaret A. Roll". The signature is fluid and cursive, with the first name "Margaret" being the most prominent part.

Margaret A. Roll
Assistant Attorney General
Open Government Section

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Ref.: ID# 21472
ID# 21612

Enclosure: Marked documents

cc: Mr. J. Kent Davenport
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(w/o enclosures)